

KEITH W. CANDLER,)
)
 Plaintiff,)
)
 v.) **ORDER DIRECTING PLAINTIFF TO**
) **EFFECTUATE SERVICE UPON OR**
) **PROVIDE COURT WITH**
) **LOCATION INFORMATION FOR**
 M.S. EVANS, Warden, et al.,) **UNSERVED DEFENDANT**
)
 Defendants.)
)
 _____) (Docket No. 19)

In cases wherein the plaintiff proceeds in forma pauperis, the “officers of the court shall issue and serve all process.” 28 U.S.C. § 1915(d). The court must appoint the Marshal

²A motion for summary judgment by these defendants is due April 11, 2007.

1 to effect service, see Fed. R. Civ. P. 4(c)(2), and the Marshal, upon order of the court, must
2 serve the summons and the complaint, see Walker v. Sumner, 14 F.3d 1415, 1422 (9th Cir.
3 1994). Although a plaintiff who is incarcerated and proceeding in forma pauperis may rely
4 on service by the Marshal, such plaintiff “may not remain silent and do nothing to effectuate
5 such service”; rather, “[a]t a minimum, a plaintiff should request service upon the appropriate
6 defendant and attempt to remedy any apparent defects of which [he] has knowledge.”
7 Rochon v. Dawson, 828 F.2d 1107, 1110 (5th Cir. 1987).

8 Here, plaintiff’s complaint has been pending for over 120 days, and thus, absent a
9 showing of “good cause,” is subject to dismissal without prejudice as to the unserved
10 defendant. See Fed. R. Civ. P. 4(m). Because plaintiff has not provided sufficient
11 information to allow the Marshal to locate and serve defendant Zingler, plaintiff must remedy
12 the situation or face dismissal of his claims against said defendant. See Walker v. Sumner,
13 14 F.3d at 1421-22 (holding prisoner failed to show cause why prison official should not be
14 dismissed under Rule 4(m) where prisoner failed to show he had provided Marshal with
15 sufficient information to effectuate service).

16 Accordingly, plaintiff must either himself effect service on defendant Zingler, or
17 provide the Court with an accurate current location such that the Marshal is able to effect
18 such service. If plaintiff fails to effectuate service on defendant Zingler, or provide the Court
19 with an accurate current location for said defendant, within **thirty (30) days** of the date this
20 order is filed, plaintiff’s claims against said defendant will be dismissed without prejudice
21 pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

22 IT IS SO ORDERED.

23 DATED: April 11, 2007

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25 MAXINE M. CHESNEY
26 United States District Judge
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